

Telangana High Court

Tsrtc, Mahabubnagar vs Smt S Tirmal, Mahabubnagar Dist on 14 March, 2023

Bench: M.G.Priyadarsini

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No.508 of 2017

JUDGMENT :

This appeal is preferred by Telangana State Road Transport Corporation ('RTC'), questioning the order and decree, dated 29.02.2016 passed in M.V.O.P.No.430 of 2012 on the file of the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District and Sessions Judge(FTC) at Mahabubnagar (for short, "the Tribunal").

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the claimant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.8,00,000/- for the injuries sustained by her in a road accident that occurred on 03.04.2012. It is stated that on the fateful day, while the claimant along with her sister, boarded the RTC bus bearing No.AP 28 Z 2636 to go to Dhanwada, at about 19:00 p.m., when the bus reached near the Court at the outskirts of Narayanpet town, the driver of the bus drove the bus at high speed and in a rash and negligent manner and dashed the tractor trolley bearing No.AP 22 V 7476 from MGP, J Macma_508_2017 the opposite direction, as a result of which, the claimant received multiple fracture injuries all over the body. Immediately, she was shifted to Government Hospital and from there shifted to SVS Hospital, Mahabubnagar and thereafter she took treatment for 21 days in Smt.Bhagwan Devi Hospital, Hyderabad, as her leg just below knee was amputated. According to the claimant, she was hale and healthy and earning Rs.500/- per day by doing tailoring. Due to the accident, she cannot operate sewing machine nor can she stand steady for cutting clothes and thereby lost her livelihood and source of income. Therefore, she laid the claim against the respondent seeking compensation of Rs.8,00,000/- under various heads.

4. Considering the claim and the counter filed by the respondent-RTC, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. and awarded compensation of Rs.5,30,400/- with interest at 9% per annum to be payable by the respondent. Challenging the same, the present appeal has been filed by the TSRTC.

5. Heard both sides and perused the record.

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6. The main contention of the learned Standing Counsel for the appellant is that there is a contributory negligence on the part of the driver of the tractor trolley bearing No.AP 22 V 7476, who contributed to the said accident, but the Tribunal has not considered the same. Further, he contended that the quantum of compensation claimed is excessive, baseless and prayed to allow the

appeal. It is lastly contended that the rate of interest fixed by the tribunal at 9% is too high and it should not be more than 6%.

7. On the other hand, learned counsel for the claimant contended that the Tribunal has rightly awarded just and reasonable compensation considering the nature of injuries suffered by the claimant and her avocation and therefore, the said order calls for no interference by this Court.

8. This Court perused the entire record and found that the appellant-RTC except stating that there is contributory negligence on the part of the driver of the Tactor Trolley, has not adduced any oral or documentary evidence to prove the same. Furthermore, Ex.A.3, charge sheet, discloses that the accident occurred only due to rash and negligent driving of the driver of MGP, J Macma_508_2017 the RTC bus. Therefore, in the absence of any rebuttal evidence, the contention of the learned Standing Counsel for the appellant-RTC that there is contributory negligence on the part of the Tractor trolley, cannot be acceptable and the same is rejected.

9. Insofar as the quantum of compensation is concerned, considering the fact that due to the injuries suffered in the accident, the claimant cannot continue her profession of tailoring and considering Ex.A.13, disability certificate, issued by the competent Medical Board assessing the percentage of disability of the claimant at 70%, the tribunal has rightly awarded just and reasonable compensation and the same needs no interference by this Court. However, as regards the interest awarded by the Tribunal is concerned, as per the decision of the Apex Court in Rajesh and others v. Rajbir Singh and others¹, the claimant is entitled to interest @ 7.5% per annum on the compensation awarded by the Tribunal from the date of petition till realization but not 9% as was awarded by the Tribunal. 1 2013 ACJ 1403 = 2013 (4) ALT 35 MGP, J Macma_508_2017

10. Accordingly, the MACMA stands disposed of. While maintaining the quantum of compensation awarded by the tribunal, the rate of interest awarded by the tribunal is hereby reduced to 7.5% from 9% per annum. No costs.

Miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI 14.03.2023 gms/tsr
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M.A.C.M.A.No.508 of 2017 DATE: 14.03.2023 gms/tsr